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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,668	03/04/2005	Emma Jane Heatley	424662010300	3153
25227 7590 03/12/2009 MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 400 MCLEAN, VA 22102				
EXAMINER				
MULLER, BRYAN R				
ART UNIT		PAPER NUMBER		
3727				
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03/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,668

Applicant(s)

HEATLEY, EMMA JANE

Examiner

BRYAN R. MULLER

Art Unit

3727

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 6-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 8, 13 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 7, 9-12, 14, 18, 19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/6/2009.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1, 2, 6, 7, 9-11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by White et al. (6,175,988).
2. White discloses a cleaning appliance that clearly anticipates all of claims 1, 2, 6, 7, 9-11, 14 and 18 wherein the guide comprises a channel (26) that retains the hose on the main body along with the rest of the guide (38 and 15b), as shown in the drawings of White, and White discloses that upper portion (24), including channel (26) may be removed from the main body (10 and 20; Col. 3, lines 6-10), thus the guide (26) is removably mounted on the main body.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1, 2, 4, 6, 7, 9-12, 14, 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (6,175,988) in view of Blase et al. (4,800,613).
5. In reference to claim 1, White discloses a cleaning appliance of the cylinder type, comprising a main body, a hose for carrying fluid to the main body and a guide located

on the main body (the guide may be considered to be channel 26, channel 60 or channel 15b formed in the foot 14b) configured for guiding the hose along a hose storage path which is a sinuous path (sinuous is defined as "having many curves, bends or turns"¹, wherein the path of the hose of White does read on a "sinuous path") around the periphery of the main body such that the hose storage path is closer to the base of the main body at the front and back of the main body ("sides" shown in Fig. 1 may also be considered to be the front and back depending on the orientation of the vacuum).

White further discloses that the main body has a length (Figs. 1, 2 and 4) that is greater than the width (Fig. 3) with feet (14a and 14b) to hold the vacuum in a stationary upright position, but White fails to disclose that the sides of the main body include a pair of wheels. The Examiner previously took official notice that it is old and well known in the art to provide the main body of vacuum cleaners with wheels to allow the main body to roll along with a user who is controlling the vacuum by the hose and nozzle. The Examiner's statement of official notice was not traversed by the applicant and therefore, is now considered to be applicant admitted prior art. Further, Blase discloses a suction cleaner, similar to the vacuum of White, having a length (Fig. 7) that is greater than the width (Fig. 6) and teaches that wheels (110) may be positioned on the sides of the vacuum, towards a rear end, to allow the cleaner to roll in forward/backward directions during use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the main body of the vacuum cleaner disclosed by White with similar wheels positioned on the sides of the vacuum, towards a

¹ Dictionary.com Unabridged
Based on the Random House Dictionary, © Random House, Inc. 2009.

rear end on or in place of feet 14a or 14b, to allow the cleaner to roll in forward/backward directions during use, as taught by Blase, to allow the main body to roll along with a user who is controlling the vacuum by the hose and nozzle. Thus, the hose storage path disclosed by White, that extends around the entire periphery of the main body would be considered to lie around at least part of the wheels, the guide would be located above the wheels and the height of the hose storage path would be considered to increase in height (one portion of the hose directed upward toward guide 26) from the base of the body in the region of the wheels.

6. In reference to claims 2, 4, 6, 7, 9-12 and 18, White further discloses all of the limitations set forth, wherein the guide comprises a channel (sections 26, 60 and 15b are all considered to form parts of a channel) that retains the hose on the main body with the hose storage path being above at least the base of the wheels and end portions (62 and 65a) of channel portions (60 and 15b, respectively) being configured to retain the hose, as shown in the drawings of White, and White discloses that upper portion (24), including channel (26) may be removed from the main body (10 and 20; Col. 3, lines 6-10), thus the guide (26) is removably mounted on the main body.

7. In reference to claim 14, any of the guide sections (26, 60 or 15b) may be considered to be clips that are positioned along the hose storage path. A "clip" is defined as "any of various devices for gripping or holding things together"², wherein all

² The American Heritage® Dictionary of the English Language, Fourth Edition
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of the guide sections either grip the hose or hold the hose against the main body, Thus reading on the limitation of a "clip".

8. In reference to claim 19, White further discloses that the hose is flexible (abstract, lines 9-10). Therefore, it further would have been obvious that the hose may stretch at least slightly to have a length which is greater than the hose storage path and the end portions (64 and 33) of the hose may be considered to be locators that identify portions of the hose that are to be retained in the body.

9. In reference to claim 20, the hose path of White is shown to curve around the entire body, thus it further would have been obvious that the guide is located such that the hose storage path would curve around at least part of the wheels.

Response to Arguments

10. Applicant's arguments with respect to the rejections in view of the Rosa reference have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments filed 1/5/2009 have been fully considered but they are not persuasive. The applicant first argues that the hose storage path of White is not sinuous. However, as discussed supra, the hose storage path of White does read on the definition of "sinuous". The applicant further argues that the hose storage path lies perpendicular, rather than around, at least part of the feet. However, as discussed supra, from the view shown in Fig. 1 of White, the hose curves around the entire periphery of the main body such that the hose storage path would also be considered to curve around at least part of the wheels. The applicant also argues that the hose is

closer to the base at the sides instead of the front and back, as claimed. However, as discussed supra, the sides, as shown in Fig. 1 of White, may also be considered to be the front and back of the main body, depending on the orientation of the vacuum cleaner. The applicant further argues that there would be no reason to modify the White reference to provide the applicant's hose storage path. However, as discussed supra, the hose storage path of White does read on the claimed hose storage path. Finally, the applicant argues that the deficiencies of White are not overcome by the Blasé reference. However, the Examiner does not consider the White reference to have any deficiencies other than the deficiencies specifically discussed in the rejection, which are taught by Blasé. Therefore the Examiner maintains all of the above rejections in view of the applicant's arguments.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rosa (D452,594), Blasé et al. (4,910,828), Lagerstrom (3,510,904), Moine et al. (2002/0184731), Kitts (D467,694), Bensussen et al. (5,742,976), Davis et al. (D537,216), Santiago et al. (D462,488) and Gierer et al. (5,996,170) all disclose cleaning appliances having similar structure as the applicant's claimed invention.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN R. MULLER whose telephone number is (571)272-4489. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bryan R Muller/
Primary Examiner, Art Unit 3727
3/11/2009